

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

TAJAI CALIP,  
Plaintiff,

v.

OAKLAND UNIFIED SCHOOL  
DISTRICT,  
Defendant.

Case No. [15-cv-00877-SI](#)

**ORDER RE: MOTIONS SCHEDULED  
FOR SEPTEMBER 4, 2015 HEARING**

Defendant's motion to dismiss the second amended complaint and plaintiff's motion for judgment on the pleadings are scheduled for a hearing on September 4, 2015 at 9:00 a.m. The Court DENIES plaintiff's motion for judgment on the pleadings as the Court has yet to determine whether the Court has subject matter jurisdiction over this case, or whether plaintiff has stated a claim.

Defendant's motion to dismiss the second amended complaint "(SAC)" argues that this Court lacks jurisdiction over plaintiff's claim of employment discrimination because the SAC does not allege the dates of plaintiff's employment nor does it allege that plaintiff filed a timely charge of discrimination with the Equal Employment Opportunity Commission ("EEOC") prior to filing this lawsuit. *See Lyons v. England*, 307 F.3d 1092, 1103 (9th Cir. 2002) ("To establish federal subject matter jurisdiction, a plaintiff is required to exhaust his or her administrative remedies before seeking adjudication of a Title VII claim.").

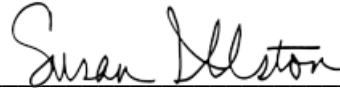
Plaintiff did not file an opposition to the motion to dismiss the second amended complaint. The Court has reviewed the SAC as well as the original and first amended complaints. The original complaint alleged that plaintiff was wrongfully terminated on or about January 20, 2010, Compl. ¶ 8, and the first amended complaint ("FAC") alleged that the discrimination occurred

1 between approximately 2008 and 2010. FAC ¶ 6. Although the FAC did not allege when  
2 plaintiff filed an administrative charge with the EEOC, the FAC alleged that "the Equal  
3 Employment Opportunity Commission issued a Notice-of-Right-to-Sue letter (copy attached),  
4 which was received by me on or about Approx. 2010-2011." *Id.* ¶ 9. However, the Notice-of-  
5 Right-to-Sue letter attached to the FAC is dated March 24, 2015. *Id.* Ex. 1.

6 At the September 4, 2015 hearing, plaintiff should be prepared to address (1) when the  
7 alleged discrimination occurred; (2) whether plaintiff filed a charge with the EEOC regarding that  
8 discrimination, and if so when, and when did plaintiff receive a Notice-of-Right-to-Sue letter; and  
9 (3) whether the March 24, 2015 Notice-of-Right-to-Sue letter relates to the matters alleged in the  
10 SAC.

11  
12 **IT IS SO ORDERED.**

13  
14 Dated: August 31, 2015



15  
16 SUSAN ILLSTON  
United States District Judge